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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,516	07/20/2001	Timothy Glass	82543	2105

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EXAMINER

HARRIS, ERICA B

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 04/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/910,516

Applicant(s)

GLASS, TIMOTHY

Examiner

Erica B Harris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 December 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 31 December 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

2. The abstract of the disclosure is objected to because it attempts to compare the invention to the prior art by using the word "easy". Correction is required. See MPEP § 608.01(b).

### *Drawings*

3. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on December 31, 2002 have been approved.

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4. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claims 1, 9, and 15 are indefinite because it is unclear what constitutes “continuous accessibility”. Is applicant trying to set forth that the side openings are never obstructed or is applicant trying to say that the tower is in a location that makes the articles continuously accessible?

8. Claims 1, 9, and 15 are indefinite because it is impossible to define what constitutes “easy placement” or “easily inserted”. What is “easy” to one person may be difficult to another and no definition as to what constitutes “easy” has been provided in the original disclosure.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-18 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. The IDS submitted by applicant on December 6, 2002 included pictures that were said to be "Copies of photographs of storage device, Timothy Glass, displayed in inventor's house starting in April 1998". The application for patent was not filed until July 20, 2001, more than three years later. Since the device was "displayed", anyone who entered the house had the opportunity to see said device, which would mean that the device was "in public use" more than one year prior to the filing of the application for patent.

11. An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows: What precautions, if any, were taken to limit the number of people who saw the device and/or to keep the device secret? Under what conditions was the device observed, i.e., was there a confidentiality agreement?

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

12. Claims 1, 4, 5, 8, 9, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Rumble (3,938,665). In Figures 1 and 2, Rumble discloses a tower for the storage and display of articles, said tower comprising a cell structure 100 having a top 24, a bottom 25, and a plurality of horizontal 17 and vertical members 13,23 positioned between the top and bottom to form a plurality of cells; a base (not shown, but disclosed in column 2, lines 38-44); and a shaft 12 fixed to the base and rotatably connected to the cell structure 100 to enable the cell structure to rotate with respect to the base. Each cell of the structure is sized to receive, hold, and display at least

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one article. Rumble discloses that each cell has a front opening, a rear opening, and a side opening whereby at least one article can be inserted into a cell through the side opening in column 3, lines 2-20 and illustrates the same in Figure 1. Each of the front and rear openings is of a size that substantially the entire front or rear surface of an article stored in the cell can be displayed.

Rumble discloses cassettes as an option for the article that is displayed in his tower and he further discloses that the spacing between display sections can be adjusted to accommodate different sized articles (column 3, lines 11-14).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 2, 3, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rumble as applied to claims 1, 4, 5, 8, 9, and 12 above, and further in view of Gioscia (5,568,873). Rumble discloses all of the limitations of these claims with the exception of a connector assembly being rotatably mounted to and positioned between the base and the cell structure bottom, wherein the connector assembly is a lazy suzan. In column 2, lines 38-44, Rumble discloses that the cell structure is rotatably mounted to the base, which is not shown. But, Rumble fails to disclose how the cell structure is rotatably mounted to said base. Gioscia, in Figures 1-3, discloses a rotatable cell structure 10 for the storage and display of compact discs

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12. The cell structure of Gioscia rotates by means of a lazy suzan type connector assembly, as most clearly illustrated in Figure 3. To one of ordinary skill in the art at the time the invention was made, it would have been obvious to use a lazy suzan type connector assembly, as taught by Gioscia, to enable the cell structure to rotate relative to said base in a stable and supported manner.

15. Claims 1, 2, 4-10, 12-15, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rumble as applied to claims 1, 4, 5, 8, 9, and 12 above, and further in view of Guignard et al. (2,738,075). Rumble discloses all of the limitations of these claims with the exception of a knob located at the top of the device to rotate said device and a connector assembly being rotatably mounted to and positioned between the base and the cell structure bottom, wherein the connector assembly is a lazy suzan. Guignard, in Figures 1-3, discloses a tower for the storage and display of articles 29, said tower comprising a cell structure 25 having a top 17, a bottom 18, and a plurality of horizontal and vertical members positioned between the top and bottom to form a plurality of cells 28; a base 5; a shaft 13 fixed to the base and rotatably connected to the cell structure 25 to enable the cell structure to rotate with respect to the base; a connector assembly 6 mounted to and positioned between the base and the cell structure bottom; and a knob 15. Each cell of the structure is sized to receive, hold, and display at least one article. Guignard further discloses that each cell has a front opening, a rear opening, and a side opening, in this case it is a top side opening, whereby at least one article can be inserted into a cell through the side opening in Figure 1. Each of the front and rear openings is of a size that substantially the entire front or rear surface of an article stored in the cell can be displayed. The knob 15 is connected to the top 17 whereby turning the knob rotates the cell structure 25. The shaft further

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has a threaded end 14 located proximate the base 5 and the connecting assembly 6 is attached to the threaded end to maintain the shaft fixed to the base. To one of ordinary skill in the art at the time the invention was made, it would have been obvious make the device of Rumble rotatable and to control the rotation by a knob, as taught by Guignard *et al.*, in order to enable the cell structure to rotate relative to said base in a stable and supported manner to make each cell accessible without having to have each opening therein aligned along a straight line.

16. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rumble and Guignard *et al.* as applied to claims 1, 2, 4-10, 12-15, 17, and 18 above, and further in view of Patterson (3,997,050). All of the limitations of this claim have been disclosed above by Guignard with the exception of a lazy suzan type connector assembly. In Figures 1 and 3, Patterson illustrates a rotatable display structure that employs a lazy suzan type connector assembly, as best shown in Figure 3. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a lazy suzan type connector assembly, as taught by Patterson, to enable the cell structure of Rumble and Guignard *et al.* to rotate relative to said base in a stable and supported manner.

### ***Response to Arguments***

17. Applicant's arguments filed December 31, 2002 have been fully considered but they are not persuasive.

With respect to applicant's remarks regarding the Section 102(b) rejection of claims 1, 4, 5, 8, 9, and 12 by the Rumble patent, the rejection is maintained. While applicant has added language to the independent claims to set forth that the articles are continuously accessible and



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easily placed in said rack, applicant has failed to define any structure, or lack thereof, that enables these features. If one has a key for the lock of Rumble, then the articles mounted in the device thereof are continuously accessible. Further, easiness is a matter of perception and would change with each person who used the device. While using the device of Rumble may not be easy for applicant, it is easy for others.

Further, what truly constitutes “continuously accessible”? Applicant appears to believe that it means that articles stored in said cells can be inserted and withdrawn with no effort other than to slide said article in or out. However, what if the device is located next to another structure, i.e., a stereo system and the desired article is in the side that is adjacent said system? If a user has to rotate the device before the article can be retrieved, is the article still continuously accessible?

### ***Conclusion***

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erica B Harris whose telephone number is 703-306-9071. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P Stodola can be reached on 703-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.



Erica B. Harris  
April 1, 2003



DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600